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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/991,200

11/16/2001

Samuel Cavallaro

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7590

10/30/2006

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EXAMINER

VO, LILIAN

ART UNIT

PAPER NUMBER

2195

DATE MAILED: 10/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/991,200	<b>Applicant(s)</b> CAVALLARO ET AL.	
	<b>Examiner</b> Lilian Vo	<b>Art Unit</b> 2195	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 July 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 - 8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 1 – 8 are pending.
2. In view of the appeal brief filed on 7/17/06, PROSECUTION IS HEREBY REOPENED.  
A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 – 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Halpern et al. (US 5,687,717, hereinafter Halpern) in view of Yodaiken (US 5,995,745).

5. Regarding **claim 1**, Halpern discloses a critical care workstation, comprising;

a display device (fig. 1);

a processor (fig. 8b), coupled to the display device (fig. 1), executing a Microsoft Windows operating system 44 (fig. 7, col. 9 lines 3 – 6) in processor 14 for communicating with sensing modules 16, which provide real-time and non-real-time patient information, whose portable display 22 is capable of displaying both real-time data and imaging data. Fig. 6e shows displays 22e displaying both real time graphs of vital signs 24c, such as ECGs and non-real time radiology images such as x-rays, CAT scans, or ultrasound images, simultaneously (col. 8 lines 13 – 27); and

a circuitry, responsive to user input, for selecting the non-real-time display program from among a plurality of available non-real-time display programs (col. 12 line 65 – col. 13 line 5, lines 59 – 67 and col. 14 lines 16 – 34).

Halpern discloses the system utilizes a Microsoft Windows operating system 44 (fig. 7, col. 9 lines 3 – 6) for controlling execution of application programs that are capable of displaying both real-time data and imaging data. Fig. 6e shows displays 22e displaying both real time graphs of vital signs 24c, such as ECGs and non-real time radiology images such as x-rays, CAT scans, or ultrasound images, simultaneously (col. 8 lines 13 – 27). Halpern did not clearly mention the terms general-purpose operating system or a real-time kernel and/or the general purpose operating and the real-time kernel are both arranged to execute as processes on the processor using a common operating system kernel, in this case Microsoft Windows operating system. Nevertheless, Yodaiken discloses a system comprises a process for running a general purpose

Art Unit: 2195

operating system using a real time operating system (col. 1 lines 8 – 10, col. 2 lines 9 – 11, col. 3 line 58 – 67, col. 6 lines 62 – 67). It would have been obvious for one of an ordinary skill in the art, at the time the invention was made, to implement Halpern's system with the concept from Yodaiken to provide a medical system that is capable of performing all the functions as desired.

6. Regarding **claim 2**, as modified Halpern discloses the general purpose operating system executes simultaneous with and independent from the real-time kernel (Halpern: col. 8 lines 13 – 27 and col. 9 lines 10 - 12).

7. Regarding **claim 3**, as modified Halpern discloses a storage device, couple to the processor, wherein the plurality of non-real-time application programs are stored on the storage device and the general purpose operating system selects one of the stored plurality of non-real-time application programs that responsive to user input (Halpern: col. 8 lines 13 – 27, col. 12 line 65 – col. 13 line 5, lines 59 – 67 and col. 14 lines 16 – 34).

8. Regarding **claim 4**, as modified Halpern discloses a storage device stores code and data representing the non-real-time application programs and the processor retrieves the stored code and data representing the selected non-real-time application and controls the execution of the retrieved code and data (Halpern: col. 8 lines 13 – 27, col. 12 line 65 – col. 13 line 5, lines 59 – 67 and col. 14 lines 16 – 34).

Art Unit: 2195

9. Regarding **claim 5**, as modified Halpern discloses a connection to a network comprising a server capable of storing the plurality of available non-real-time application programs and the general purpose operating system selects one of the stored plurality of non-real-time application programs that responsive to user input (Halpern: fig. 7 and 9, col. 8 lines 13 – 27 and 34 – 65, col. 12 line 65 – col. 13 line 5, lines 59 – 67 and col. 14 lines 16 – 34).

10. Regarding **claim 6**, as modified Halpern discloses the server stores code and data presenting the non-real-time application programs and the processor retrieves the stored code and data representing the selected non-real-time application and controls the execution of the retrieved code and data (Halpern: fig. 7 and 9, col. 8 lines 13 – 27 and 34 – 65, col. 12 line 65 – col. 13 line 5, lines 59 – 67 and col. 14 lines 16 – 34).

11. Regarding **claim 7**, as modified Halpern discloses the real-time data is physiological data (Halpern: col. 8 lines 13 – 27, fig. 6 and 6e).

12. Regarding **claim 8**, as modified Halpern discloses the displayed image concurrently displays both non-real time and real time data (Halpern: col. 8 lines 13 – 27, fig. 6 and 6e).

### ***Response to Arguments***

13. Applicant's arguments with respect to claims 1 - 8 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lilian Vo whose telephone number is 571-272-3774. The examiner can normally be reached on Thursday 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on 571-272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lilian Vo  
Examiner  
Art Unit 2195

lv  
October 12, 2006

  
**MENG-AL T. AN**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2100**